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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,429

Applicant(s)

ULVENES, RANDY

Examiner

Michael C. Lai

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. This application has no priority claim made. The filing date is 10/27/2003.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 is rejected under 35 U.S.C. 112; second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Regarding claim 18, the phrase "the other web content" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 4, 7-17, 19-23 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Vacanti et al. (US 6,987,987 B1), hereinafter referred to as Vacanti.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

7. Regarding claim 1, Vacanti discloses: In a communication system that transmits a request for web content from a client station to a content server over a communication path, a method comprising: (a) computing a size-based cost to access the web content (FIG. 15, the price of the articles or web contents inherently means the cost have been computed based on the content size). (b) engaging in interstitial communication with the client station to receive user approval to pay the size-based cost (FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station...). (c) after receiving the user approval, sending the request along to the content server (col. 17, lines 3-7: Once the interstitial server 62 has completed its interstitial communication with the client station 14, the interstitial server 62 may signal to the intermediation platform 60 to send the user's original HTTP request along its way to content server 18).
8. Regarding claim 4, Vacanti discloses: In a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising: (a) computing a size-based cost to access the web content (FIG. 15, the price of the articles or web contents inherently means the cost have been

computed based on the content size). (b) engaging in interstitial communication with the client station to receive user approval to pay the size-based cost (FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station...). (c) after receiving the user approval, sending the web content along to the client station (col. 23, lines 57-60: After collecting the user's payment or agreement to pay or be billed, the system may then send the HTTP response along to the client station, for presentation of the requested content to the user).

9. Regarding claim 7, Vacanti discloses an intermediation system disposed within a web communication path between a client station and content server, the intermediation system comprising: (a) a network interface for receiving and sending communications on the web communication path, wherein the network interface receives a communication that carries a request for web content provided by the client station (FIG. 10 and col. 12, lines 16-18: Generally speaking, the network interface receives 66 and sends IP packets that carry HTTP communications); (b) cost-computation logic for computing a size-based cost to access the web content (col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink.); (c) an interstitial-billing system for engaging in interstitial communication with the client station so as to collect a user approval to pay the size-based cost (FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station...); (d) after the intermediation system receives the user approval, the network interface sends the request along to the content server (col. 17, lines 3-7: Once the interstitial server 62 has

Art Unit: 2143

completed its interstitial communication with the client station 14, the interstitial server 62 may signal to the intermediation platform 60 to send the user's original HTTP request along its way to content server 18).

10. Regarding claims 8, 11, Vacanti further discloses an interstitial server (FIG. 7, interstitial server 62 and col. 9, line 66 – col. 10, line 3).
11. Regarding claims 9, 12, Vacanti further discloses: the intermediation system disposed with an access channel between the client station and a packet-switched network (FIG. 7 and col. 9, lines 32-37: client station 14 communicates with a content server 18 over a packet-switched network 16...).
12. Regarding claim 10, Vacanti discloses an intermediation system disposed within a web communication path between a client station and content server, the intermediation system comprising: (a) a network interface for receiving and sending communications on the web communication path, wherein the network interface receives a communication that carries web content provided by the content server(FIG. 7); (b) cost-computation logic for computing a size-based cost to access the web content(col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink); and (c) an interstitial-billing system for engaging in interstitial communication with the client station so as to collect a user approval to pay the size-based cost(FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station), (d) wherein, after the intermediation system receives the user approval, the network interface sends the web content along to the content server(col.

Art Unit: 2143

23, lines 34-37: The interstitial server 62 may then validate the credit card information, record the charge in a billing system, and then signal to the intermediation platform 60 to send the user's original GET request along to the content server 18).

13. Regarding claim 13, Vacanti discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, the web content defining a hyperlink to be presented by a browser running on the client station, the hyperlink pointing to referenced web content, a method comprising: during transmission of the web content within the communication path, between the content server and the client station, (i) computing a size-based cost to access the web content (col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink) and (ii) adding an indication of the size-based cost into the web content, in conjunction with the hyperlink, such that the indication will be presented to a user when the web content is presented to the user (FIG. 15, and col. 18, lines 52-65: In this regard, the explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.).
14. Regarding claim 14, Vacanti further discloses an access channel between content server 18 and client station 14 (FIG. 1).
15. Regarding claim 15, Vacanti further discloses engaging in interstitial communication with the user to collect user-payment of the size-based cost for the referenced web

content (FIG. 7: interstitial server 62, col. 15, lines 44-45: engaging in "interstitial communication" with the client station (and, more specifically, with the user 12)...).

16. Regarding claim 16, Vacanti discloses a communication system wherein web content is transmitted over a communication path from a content server to a client station, a method comprising, during transmission of the web content within the communication path, the following functions: (a) receiving the web content (FIG. 10 and col. 12, lines 16-18: Generally speaking, the network interface receives 66 and sends IP packets that carry HTTP communications); (b) detecting a hyperlink within the web content, wherein the hyperlink points to referenced web content (col. 9, lines 20-24: In this regard, the intermediation system will preferably include trigger logic, which detects HTTP communications, and a enforcement logic, which acts on or in response to HTTP communications.); (c) determining a cost of the referenced web content based at least in part on a size of the referenced web content (col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink); (d) adding into the web content, in conjunction with the hyperlink, an indication of the determined cost (FIG. 15, and col. 18, lines 52-65: In this regard, the explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.); and (e) sending the web content, including the indication, along the access channel to the client station (col. 23, lines 57-60: After collecting the user's payment or agreement to pay or be billed, the system may then send the HTTP response along to the client station, for

Art Unit: 2143

presentation of the requested content to the user), (f) whereby the indication will be presented to a user when the web content is presented to the user, thereby giving the user an advanced notice of the cost of the referenced web content (FIG. 15, and col. 18, lines 52-65: In this regard, the explanatory object might be text or graphics that somehow indicates a cost for the web content. The indication of cost could be a general indication that there is a charge to access the web content.).

17. Regarding claim 17, Vacanti further discloses an access channel between client station 14 and a packet-switched network (FIG. 1).
18. Regarding claim 19, Vacanti further discloses that the web content is defined by a set of markup language (FIG. 12), and wherein adding the indication of the size-based cost in conjunction with the hyperlink comprises adding into the set of markup language (FIG. 14), adjacent to the hyperlink, display text indicative of the size-based cost (FIG. 15).
19. Regarding claim 20, Vacanti discloses an intermediation system disposed within a web communication path between a client station and a packet-switched network, the intermediation system comprising: (a) a network interface for receiving and sending communications on the HTTP communication path, wherein the network interface receives a communication that carries web content and the web content defines a hyperlink that points to referenced web content (FIG. 10 and col. 2, lines 41-46: The intermediation system may include a network interface for receiving and sending communications on the HTTP communication path, and the network interface may receive a communication that carries web content including a hyperlink that points to referenced web content.); (b) cost-computation logic for computing a size-based cost to

Art Unit: 2143

access the referenced web content (col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink); and (c) cost-embellishment logic for inserting into the web content an indication of the size-based cost to access the referenced web content and for thereby establishing cost-embellished web content (FIG. 10 and col. 2, lines 46-50: The intermediation system may then further include cost-embellishment logic for inserting into the web content an indication of cost to access the referenced web content and for thereby establishing cost-embellished web content); (d) wherein the network interface sends the cost-embellished web content along the access channel for ultimate receipt and presentation of the cost-embellished web content by a browser running on the client station (FIG. 10 and col. 2, lines 50-53: the network interface may send the cost-embellished web content along the access channel for ultimate receipt and presentation of the cost-embellished web content by a browser running on the client station.).

20. Regarding claim 21, Vacanti further discloses that the cost-computation logic and cost-embellishment logic are embodied in software executable by a processor (FIG. 10 processor 68, and col. 22, lines 4-7: Handler logic modules 80 might then include an ADDCOST() function, which is executable by processor 68 to add the indicated cost into the referenced hyperlink.).
21. Regarding claim 22, Vacanti further discloses that the intermediation system is disposed within the access channel (FIG. 7, and col. 9, lines 19-21: an exemplary intermediation

Art Unit: 2143

system will sit within the HTTP communication path between a client station and content server.).

22. Regarding claim 23, Vacanti further discloses that the client station is a mobile station, and the access channel comprises an air interface and a radio access network (FIG. 8).
23. Regarding claim 25, Vacanti further discloses that: (a) exception data that indicates whether a user of the client station already has a right to access the referenced web content (col. 13, lines 45-50: an exception table might specify that a particular user has already paid for the content, so that no intermediation is required for that user); (b) wherein the cost-embellishment logic doesn't insert the indication of size-based cost if the exception data specifies that the user of the client station already has a right to access the referenced web content (as noted above in (a), since no intermediation is required under this situation, it is inherent that the intermediation system does not instruct the cost-embellishment logic to insert the indication of size-based cost).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 2-3, 5-6, 18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vacanti, in view of Crosskey et al. (US 6,035,281), hereinafter referred to as Crosskey.

26. Regarding to claims 2, 5, 18 and 24, Vacanti doesn't disclose that a size-based cost is obtained by multiplying a charging-rate by a size of the web content. However, Crosskey discloses a usage-based system and method (col. 11, lines 8-10: cost based on the transferred message size (size-based) of the log record...). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Crosskey into Vacanti's system, i.e., a size-based cost (same as usage-based) system. The motivation would be to provide a billing method that is fairer to the user and that can also prevent heavy users from monopolizing part of the internet resources. In view of the indefiniteness of claim 18, as discussed above, the examiner make the assumption that there is no "other" web content for the purpose of rejecting the claim on prior art. Therefore claim 18 is also rejected with Vacanti in view of Crosskey.
27. Regarding to claims 3 and 6, Vacanti doesn't disclose that the charging rate is based at least in part on service level and time of day. However, Crosskey discloses a service level pricing (col. 11, lines 26-32: Furthermore, based on the client profile, different pricing can also be applied according to different service levels such as transmission speed (e.g. pay more for high speed communication), real-time support (e.g. stock quotes), content filtering (e.g. specification of content to be received) and advertisement receipt selection (e.g. no advertisements)) and a time of day pricing (col. 11, lines 14-18: Depending on the time stamp (TS), different pricing can be applied for the same message size. For example, a 2 MB message may cost 20 cents during the daytime but may cost only 10 cents during the nighttime). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Crosskey into Vacanti's

Art Unit: 2143

system, i.e., a service level and a time of day pricing system. The motivation would be to provide more options to users based on their needs and prices they are willing to pay.

Remarks

28. The following pertaining arts are discovered and not used in this office action. Office reserves the right to use these arts in later actions.

- Barber (US 5,930,777) Method of Charging for Pay-Per-Access Information Over a Network
- Geddes et al. (US 7,107,309 B1) Method and System for Providing Interstitial Notice

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on (571) 272-5026. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
06JULY2007

A handwritten signature in black ink, appearing to read "Marvin Lateef", with a stylized, cursive script.

MARVIN M. LATEEF
SUPERVISORY PATENT EXAMINER